APPENDIX

Title 88 of the Revised Civil Statutes of Texas, entitled "Libel," is made up of articles 5430 to 5433, inclusive.

"Article 5430: (5595) Definitions: A libel is a defamation expressed in printing or writing, or by signs and pictures, or drawings tending to blacken the memory of the dead, or tending to injure the reputation of one who is alive, and thereby expose him to public hatred, contempt or ridicule, or financial injury, or to impeach the honesty, integrity, or virtue, or reputation of any one, or to publish the natural defects of any one and thereby expose such person to public hatred, ridicule, or financial injury." (Acts 1901, p. 30).

Articles 5431 and 5432 amended by Acts 40th Legislature, Regular Session, p. 121 Chapter 80 are as follows:

Article 5431. In any action for libel, in determining the extent and source of actual damage and in mitigation of exemplary or punitive damage, the defendant may give in evidence, if specially pleaded, all material facts and circumstances surrounding such claim of damage and the defense thereto, and also all facts and circumstances under which the libelous publication was made, and any public apology, correction or retraction made and published by him of the libel complained of, and may also give in evidence, if specially pleaded in mitigation of exemplary or punitive damage, the intention with which the libelous publication was made. The truth of the statement, or statements, in such publication shall be a defense to such action."

"Article 5432. The publication of the following matters by any newspaper or periodical shall be deemed priviledged and shall not be made the basis of any action for libel:

1. A fair, true and impartial account of the preceedings in a court of justice, unless the court prohibits the publication of same when in the judgment of the court the ends of justice demand that the same should not be published and the court so orders, or any other official proceedings authorized by law in the admisistration of the law.

2. A fair, true and impartial account of all executive and legislative proceedings, including all reports of and proceedings in or before legislative committees and before each and all such committees heretofore appointed by the Legislative or either branch of the Legislature or hereafter to be appointed by such bodies or either of them and of any debate or statement in or before the Legislature or either branch therof or any of its committees, and including also all reports of and proceedings in or before the managing boards of educational and eleemosynary institutions supported from the public revenue, of city councils or other governing bodies of cities or towns, of the commissioners' court of any county, and of the board of trustees of the public school of any district, city or county, and of any debate or statement in or before any such body.

3. A fair, true and impartial account of the proceedings of public meetings, dealing with public purposes, including a fair, true and impartial account of statements and discussion in such meetings, and of other matters of public concern, transpiring and uttered at such public meetings.

4. A reasonable and fair comment or criticism of the official acts of public officials and of other matters of public concern published for general information.

5. The priviledge provided under Section 1, 2, 3, and 4, of this article shall extend to any first publication of such priviledged matter by any newspaper or periodical, and to subsequent publications thereof by it when published as a matter of public concern for general information; but any re-publication of such priviledged matter, after the same has ceased to be a matter of such public concern, shall not be deemed priviledged, and may be made the basis of an action for libel upon proof that such matter had ceased to be of such public concern and that same was published with actual malice.

"Article 5433 (5598) Construction. Nothing in this title shall be construed to amend or repeal any penal law on the subject of libel, nor to take away any now or at any time heretofore existing defense to a civil action for libel, either at common law or otherwise, but all such defenses are hereby expressly preserved. (Id. Acts 1917, p. 474.)"